

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

FILED
CLERK'S OFFICE
2004 JAN 20 P 3:12
CIVIL ACTION NO. 03-12350-RGS
) U.S. DISTRICT COURT
) DISTRICT OF MASS.

KATHLEEN HOWE,
Plaintiff,

v.

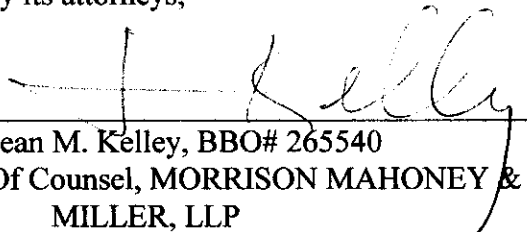
CONTINENTAL CASUALTY COMPANY)
Defendant

**DEFENDANT CONTINENTAL CASUALTY COMPANY'S RULE 39(a)
MOTION TO STRIKE**

Now comes the Defendant Continental Casualty Company, and pursuant to Rule 39(a) of the Federal Rules of Civil Procedure, hereby moves this Court to strike Plaintiff's demand for a trial by jury, as no such right exists under ERISA. The Defendant relies upon the Memorandum of Law annexed hereto.

WHEREFORE, the defendant requests that this Court strike Plaintiff's demand for a trial by Jury.

CONTINENTAL CASUALTY COMPANY,
By its attorneys,



Jean M. Kelley, BBO# 265540
Of Counsel, MORRISON MAHONEY &
MILLER, LLP
115 Commonwealth Ave.
Chestnut Hill, MA 02467
617-964-0323